

**Memorandum of Understanding
between
Franklin C. Fetter Family Health Center, Inc.
and
Charleston Dorchester Mental Health Center**

THIS AGREEMENT is made and entered into this 5th day of June, 2012 by and between the Franklin C. Fetter Family Health Center, Inc., hereinafter called "Fetter", and the Charleston Dorchester Mental Health Center, hereinafter called "CDMHC."

THAT WHEREAS, CDMHC wishes to have routine medical care available to its clients,

AND WHEREAS, Fetter is willing to provide healthcare services to CDMHC clients,

NOW THEREFORE, in consideration of mutual promises and covenants, the parties agree as follows:

I. Responsibilities of Fetter:

- A. Assign one administrative staff member and one appropriately credentialed advanced practitioner registered nurse to provide primary health care to clients referred by CDMHC for healthcare services one-half day per week.
- B. These position(s) will be clinically supervised by Fetter and scheduled at various CDMHC service delivery sites mutually agreed upon by CDMHC and Fetter.
- C. Agree to follow generally accepted professional standards, protocols, and guidelines governing the provision of any services.
- D. Assist with the development of routine and specialized reports and evaluations regarding program operations, efficiency, effectiveness, and client satisfaction.
- E. Appoint an individual to serve as administrative liaison to CDMHC.
- F. Will comply with all federal, state, and local laws, rules, regulations, and protocols, including those of the South Carolina Department of Mental Health and CDMHC.

II. Responsibilities of CDMHC:

- A. Maintain generally accepted professional and quality standards and comply with all

applicable federal, state, and local regulations regarding the provision of healthcare and behavioral health services.

- B. Provide adequate orientation to ensure Fetter staff assigned to the CDMHC system are familiar with the CDMHC healthcare system and any applicable policies, procedures, and guidelines.
- C. Provide adequate parking, office area, and space for personal belongings.
- D. Appoint an individual to serve as administrative liaison to Fetter.

III. Mutual Responsibilities of Fetter and CDMHC:

- A. Agree to make available to the other, appropriate client/patient treatment, payment, and healthcare operations information, written, verbally or electronically, to include, but not restricted to, clinical and medication records, service plans, correspondence, admission and discharge data, and financial information. Any exchange of such information shall comply with all applicable federal, state, and local laws, rules, and regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as well as the policies and procedures of each organization.
- B. Agree to ensure the confidentiality and security of protected client/patient information, including the safeguarding of written and electronic materials and to comply with applicable federal, state, and local laws, rules, and regulations including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as well as the policies and procedures of each organization.

IV. Term:

- A. The initial contract term shall be from **June 5, 2012, to June 4, 2013** and will automatically extend on the expiration date for up to two (2) additional one (1) year periods.
- B. This agreement may be terminated by either party with thirty (30) days written notice prior to the effective date of such termination.

V. Acceptance of the Agreement:

This agreement shall not be considered accepted, approved, or otherwise effective until the statutorily or administratively required approvals and certifications, if any, have been given.

VI. Modifications:

The parties agree to the full and complete performance of the mutual covenants contained herein and that this agreement constitutes the sole, full and complete agreement by and between the parties; and no amendments, changes, additions, deletions, or modifications to or of this agreement shall be valid unless reduced to writing, signed by the parties and attached hereto.

VII. Incorporation:

This contract incorporates the attached SCDMH "COVENANTS AND CONDITIONS" and "BUSINESS ASSOCIATE/QUALIFIED SERVICE ORGANIZATION AGREEMENT."

IN TESTIMONY WHEREOF, the hands and seal of the parties are affixed hereto:

<u>Deborah S. Blalock</u> 06/25/12	<u>Ronald A. Ravenell</u> 7/6/2012
Deborah S. Blalock, M.Ed., L.P.C.S. Date	Ronald Ravenell Date
Executive Director	Executive Director
CDMHC	Franklin C. Fetter Family Health Center, Inc.

<u>Diane Welsch</u> 06/25/12	<u>[Signature]</u> 7/6/12
Witness Date	Witness Date

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (DMH) COVENANTS AND CONDITIONS (1 page)

This is made a part of the attached Contract with DMH and/or DMH component. If any Contract term or obligation is in conflict with this document, this document will control. The parties to the Contract will comply with all applicable law. If the Contract involves federal or other grant funds (including any applicable grant subcontractor or sub grantee obligations), the parties will comply with the applicable grant terms and obligations. **As may be applicable to the attached Contract**, the party contracting with DMH also agrees:

1. To comply with all applicable law including: Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d & 2000e); 45 CFR Part 80; § 504 of the Rehabilitation Act of 1973; 45 CFR Part 84; Age Discrimination Act of 1975; 42 U.S.C. 6101 et seq.; Omnibus Budget Reconciliation Act of 1981; Americans with Disabilities Act; 42 CFR Parts 35 & 36; Federal Drug Free Workplace Act of 1988 & §44-107-10 et seq. S.C. Code; 45 CFR Part 160 et seq. (HIPAA); 42 CFR Part 2 (Alcohol and Drug Confidentiality); and §44-22-100, SC Code (DMH Patient/Client/Person Subject to Commitment Confidentiality).
2. Unless specific Contract/applicable grant terms require otherwise, DMH has ownership, title, copyright or other right to property purchased or developed with Contract funds. The party contracting with DMH will not publish or use reports, data or other material or information related to Contract services for its own purpose or financial benefit without prior DMH written permission.
3. Execution and performance of any Contract provision, or continued payment, will not affect DMH's right to enforce the Contract. No DMH waiver of any Contract breach will be considered as waiver of any succeeding breach, or applicable provision.
4. The Contract is governed by applicable Federal and South Carolina law and any legal action, suit, proceeding or other dispute resolution activity arising from the Contract will be instituted and maintained in the applicable court in South Carolina.
5. No sub-contract or assignment of the Contract, Contract obligations or Contract rights is valid without written DMH consent. Regardless, the party contracting with DMH will be solely responsible for its Contract performance and obligations.
6. DMH and other public agency having audit authority over the Contract or Contract services may audit books, records and other documents of the party contracting with DMH as they pertain to the Contract, independent of and pursuant to, §11-35-2220, S.C. Code. Such documents will be maintained for a period of at least three (3) years from the date of final payment under the Contract.
7. To conform to DMH and other applicable credentialing, privileging and Corporate Compliance requirements, including those issued by the OIG USDHHS. The party contracting with DMH will not employ persons listed on the OIG's Cumulative Sanctions Report or Excluded Parties List System (<http://exclusions.oig.hhs.gov/> <https://www.epls.gov/>) and will adopt DMH policies regarding §6032 of the Deficit Reduction Act of 2005 as stated in DMH S&P No.1. (http://www.state.sc.us/dmh/policies/corp_comply/6032.pdf).
8. If the party contracting with DMH seeks and obtains third party payment including from federal sources such as Medicare or Medicaid, the party contracting with DMH will offset any amounts due from DMH with the receipts or submit the funds to DMH and be solely responsible for the legitimacy of the request for and payment of funds and any recoupments sought by the third party payor. If payments to DMH from the party contracting with DMH are not full compensation for all DMH Contract services, DMH may bill and accept payment for such uncompensated services from any other available payor or source of payment, and any such payment will not reduce any payment due to DMH by the party contracting with DMH.
9. If Contract services involve the review or use of DMH plans, reports, financial information, attorney work product, personal, patient and/or other proprietary or confidential information, the party contracting with DMH will use or disclose such information only as necessary to perform Contract services or otherwise with applicable DMH written permission, or as required or permitted by law.
10. No Contract funds, materials, property, or services will be used for any partisan, political activity, or to further the election or defeat of any candidate for public office or any activity in violation of the "Hatch Act" or other applicable law. No attorney may be engaged through the use of Contract funds. Subject to §15-77-300, SC Code, DMH will not be obligated to pay attorney's fees or the cost of legal action arising from this Contract.
11. No employee of either party to this Contract will be deemed as an employee of the other party. Nothing in the Contract will be interpreted as creating any employment, agency, partnership, joint venture, or any other similar relationship between the parties. Neither party will make any representation or statement to any person or entity inconsistent with the Contract.
12. The following Contract terms or obligations are of no effect if they require (and the Contract will not be interpreted as requiring) that DMH: submit to the jurisdiction of another state's laws and/or courts; indemnify the party contracting with DMH or any other party; or waive any interest, right, immunity or defense that DMH may have in law or in equity.

**SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (SCDMH)
BUSINESS ASSOCIATE/QUALIFIED SERVICE ORGANIZATION AGREEMENT**

SCDMH/its inpatient/outpatient facility/component (SCDMH) and **Franklin C. Fetter Family Health Center, Inc.**, SCDMH contractor (Contractor), will comply with applicable law including privacy of Protected Health Information identifying a SCDMH patient or client or a person subject to commitment (PHI). Contractor (and if applicable, also on behalf of its subcontractor(s)) in providing services to SCDMH and in receiving, transmitting, processing, storing, disclosing or otherwise using PHI, agrees to:

- 1) Comply with all applicable law protecting PHI including HIPAA, 45 CFR Part 160 et seq. and HIPAA HITECH §44-22-100 Code of Laws of South Carolina (SCDMH patients/clients/persons subject to commitment); and if also applicable, 42 CFR Part 2 (alcohol & drug program patients); collectively: Applicable Law.
- 2) Comply (including its applicable subcontractors) with HIPAA HITECH Standards, including: (i) minimum necessary disclosures (ii) requests for use or disclosure restrictions (iii) prohibition of PHI sale or other remuneration for certain communications (v) electronic access to PHI (vi) Administrative, Physical and Technical Safeguards; Policies and Procedures, Documentation Requirements and accounting of certain PHI disclosures.
- 3) Resist all efforts in judicial and other proceedings to obtain access to PHI except as specifically provided for by Applicable Law (including specific applicable provisions of 42 CFR Part 2).
- 4) Use appropriate safeguards to prevent unauthorized PHI use or disclosure.
- 5) Report known un-permitted PHI use or disclosure to SCDMH and take reasonable action to mitigate related damage.
- 6) Ensure that its employees, officials, agents or subcontractors, to whom it provides PHI, agree to the same terms, restrictions and conditions contained in this Agreement.
- 7) Provide PHI access to SCDMH or as directed by SCDMH, to meet the requirements of Applicable Law, including patient right to access and copy their PHI and as may be related to Breach Investigation and Notification.
- 8) Amend PHI as directed by SCDMH in accord with Applicable Law.
- 9) Make available its internal practices/policies/procedures and records relating to use and disclosure of PHI received from SCDMH or created/received by Contractor for SCDMH, to SCDMH, DHHS or otherwise as required by Applicable Law.
- 10) Document and provide copies of all PHI disclosures needed for Contractor and/or SCDMH to respond to a request by an individual for an accounting of disclosure in accord with Applicable Law.
- 11) Provide Contractor's annual IT security audit results to SCDMH upon request.
- 12) Acknowledge that SCDMH may terminate this Agreement upon Contractor breach.
- 13) Upon termination of this Agreement, return or destroy all PHI received or created pursuant to this Agreement, including PHI in the possession of its employees, officials, agents and/or subcontractors and retain no copies of the PHI.
- 14) If applicable upon termination, notify SCDMH of conditions that make return or destruction infeasible, and as long as it maintains the PHI, extend the protections in this Agreement to the PHI and limit its further use and disclosure to purposes that make the return or destruction infeasible.

 7/6/2012
For Contractor Date

 06/25/12
For SCDMH Date